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7 Attorneys for Petitioner

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 ROBERT BELLON,
11 Petitioner,
12 vs.
13 DWIGHT NEVEN, et al.,
14 Respondents.

2:12-cv-01639-PMP-GWF

**UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME IN WHICH
TO FILE RESPONSE TO ORDER TO
SHOW CAUSE**

(Third Request)

16 Petitioner, Robert Bellon, through his attorney of record, Jonathan M. Kirshbaum, Assistant
17 Federal Public Defender, hereby moves this Court for an extension of time of thirty (30) days, from
18 Tuesday, August 20, 2013 to and including Thursday, September 19, 2013, in which to file a response
19 to the Court's Order filed January 15, 2013 (CR 6). This motion is based upon the attached points and
20 authorities and all pleadings and papers on file herein.

21 DATED this 13th day of August, 2013.

22 LAW OFFICES OF THE
FEDERAL PUBLIC DEFENDER
23

24 By: /s/ Jonathan M. Kirshbaum
25 JONATHAN M. KIRSHBAUM
26 Assistant Federal Public Defender
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POINTS AND AUTHORITIES

2 1. On January 22, 2013, the Law Office of the Federal Public Defender was appointed to
3 represent Petitioner in the above-entitled action. (CR 9.) On February 21, 2013, prior counsel for
4 Petitioner, Megan C. Hoffman, Assistant Federal Public Defender, filed her Notice of Representation
5 of Petitioner. (CR 11.) On June 3, 2013, Mr. Bellon's case was reassigned to Assistant Federal Public
6 Defender Jonathan M. Kirshbaum. Counsel filed his Substitution of Attorney on June 6, 2013, replacing
7 Ms. Hoffman as counsel for Petitioner.

8 2. Pursuant to this Court’s Order (CR 9), “petitioner, through counsel, shall, within sixty
9 days of the notice of appearance, respond to the Order of January 15, 2013, including a status on any
10 state court proceedings.” As such, the deadline for filing a response to the January 15, 2013 Order (CR
11 6) was April 22, 2013. On April 22, 2013, Petitioner requested and this Court granted an extension of
12 time to respond to and including June 21, 2013. (CR 12 and 13.) On June 19, 2013, Petition requested
13 and on June 20, 2013, this Court granted an extension of time to respond to and including August 20,
14 2013. (CR 15 and 16.)

15 3. Mr. Kirshbaum and the assigned paralegal traveled to High Desert State Prison, in Indian
16 Springs, Nevada, to meet with Mr. Bellon on March 26, 2013.

17 4. Since appointment to this case, counsel's office has engaged in the process of ordering,
18 gathering and organizing the state court record, including all discovery and prior counsel files, in Mr.
19 Bellon's case. All of the aforementioned documents have been electronically imaged in accordance with
20 the case management and handling procedures set in place by the non-capital habeas unit to go paper
21 free.

22 5. On March 28, 2013, counsel requested copies of two (2) Nevada Department of
23 Corrections (“NDOC”) documents concerning Mr. Bellon. On April 4, 2013, Deputy Attorney General
24 Joseph Reynolds contacted Mr. Kirshbaum to confirm Respondents’ receipt of this request. On May
25 9, 2013, counsel received copies of the requested documents; however, due to a scanning error, the
26 documents needed to be rescanned and resent. Counsel received the rescanned documents on June 18,
27 2013, and is currently in the process of reviewing them.

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1 6. Counsel is requesting this third extension of time in order to secure signed declarations
 2 from Mr. Bellon, as well as his mother who is living out-of-state.

3 7. Counsel's schedule has also prevented him from meeting this deadline. The following
 4 activities and deadlines, in addition to a major re-organization of the Non-Capital Habeas Corpus Unit
 5 of the FPD Office, contribute to the need for an enlargement of time: opening brief filed in Ebeling v.
Smith, Ninth Circuit Court of Appeals (USCA) # 12-16350 on July 15, 2013; opening brief filed in
Nolan v. Palmer, USCA # 12-17252 on July 24, 2013; notice of intent to abandon claim filed in Birch
v. Neven, 2:11-cv-00516-GMN-CWH on July 29, 2013; petition for writ of habeas corpus filed in
Aguilar v. Baker, Eighth Judicial District Court, Clark County, Nevada # C138024 on July 31, 2013;
 10 notice of intent to supplement and supplemental index and exhibits file in High v. Nevens, 2:11-cv-
 11 00891-APG-VCG on August 12, 2013; opening brief due in Davis v. Warden Palmer, USCA # 13-
 12 15245 on August 16, 2013; amended petition due in Thomas v. Baca, 3:13-cv-00043-LRH-WGC on
 13 August 22, 2013; fast-track statement due in McLaughlin v. State, Nevada Supreme Court #63603 on
 14 August 26, 2013; amended petition due in Rangel v. Neven, 2:12-CV-2034-MMD-PAL on August 26,
 15 2013; amended petition due in Estes v. LaGrande, 3:13-cv-00072-MMD-WGC on September 4, 2013;
 16 amended petition due in Goodman v. Neven, 2:12-cv-01967-JCM-VCF on September 10, 2013;
 17 amended petition due in Johnston v. Legrand, 3:12-cv-00557-RCJ-WGC on September 9, 2013; petition
 18 for a writ of certiorari due in Kublawi v. Palmer, USCA #13-15793 on September 10, 2013; amended
 19 petition due in Cisneros v. Baker, 3:13-cv-00033-MMD-VPC on September 16, 2013; opposition to
 20 motion to dismiss due in Clark v. Neven, 2:11-cv-585-KJD-LRL on September 16, 2013.

21 8. Budget cuts and the sequester have also impacted the FPD Office's work on this case.
 22 The multiple budget cuts have resulted in all employees, including the attorneys working on this case,
 23 to be furloughed for nine (9) days between March 1, 2013, and October 1, 2013. Additionally, as a result
 24 of retirements and a hiring freeze, a great number of cases had to be reassigned between the remaining
 25 attorneys.

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1 9. This motion is not filed for the purpose of delay, but in the interests of justice, as well
2 as in the interest of Mr. Bellon. Counsel respectfully requests that this Court grant the request for an
3 extension of time to file the response to the January 15, 2013 Order (CR 6) until September 19, 2013,
4 to enable effective and thorough representation of Mr. Bellon in his federal habeas action.

5 10. On August 12, 2013, Deputy Attorney General, Jared Frost, was contacted and informed
6 of our request to extend the time for filing the response to the January 15, 2013 Order (CR 6). He is not
7 opposed to this request for an extension of time.

8 DATED this 13th day of August, 2013.

LAW OFFICES OF THE
FEDERAL PUBLIC DEFENDER

11 By: /s/ Jonathan M. Kirshbaum
12 JONATHAN M. KIRSHBAUM
Assistant Federal Public Defender

IT IS SO ORDERED:
Response to Order to Show Cause due 9/19/13.

Philip M. Orr

United States District Judge
August 14, 2013

1 CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that she is an employee in the office of the Federal Public
3 Defender for the District of Nevada and is a person of such age and discretion as to be competent to
4 serve papers.

5 That on August 13, 2013, she served a true and accurate copy of the foregoing to the United
6 States District Court, who will e-serve the following addressee:

7 JARED M. FROST
8 Deputy Attorney General
9 Appellate Division
10 100 North Carson Street
11 Carson City, Nevada 89701-4717

12 */s/ Susan Kline*
13 An employee of the Federal Public
14 Defender's Office

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